time and time again mines are forced to close down because this waste material is thrown on the energy market. And yet the administration simply refuses to control this flow of muck which completely works at odds with any good that could be accomplished under the so-called poverty programs.

Another instance, my State recently had the opportunity of getting a new petrol chemical plant, one in which there would not be a dime's worth of Federal money involved. It was a free enterprise move to the State of West Virginia. Two industries wanted to get together to construct this plant and utilize our resources and many other of the fine attributes available in our State. The thing they needed was naphtha, as the material necessary to run this particular facility. But there was an import control on naptha. So we had to go to the administration and ask them, "would you let enough naphtha—we are talking about the raw material again—come into the country, because this is a plant that will employ a thousand people in our State, where you desire to spend thousands of Federal dollars?"

The administration said "No, we cannot take the import quotas off of naphtha." It seems utterly ridiculous to me that the people in my State are forced time and time again to be exposed to our sister States in such a way that some of them actually believe we are not interested in the problems that exist, or the humanitarian difficulties that exist among some of our citizens, when actually we are trying to solve it the best way we can, that is, by preserving the jobs and preserving the industries and trying to encourage new industries, not something financed by a Government agency, but one in which freedom of choice and the free enterprise system would create the new job opportunities. Yet this administration and the last administration has slammed the door in the face of the workers and the industries, and the people of my State, and seemingly are content to make us believe that we are the No. 1 welfare State in the Union.

I think it is just high time that the people in my State rise up and once and for all simply say to this Federal monstrosity here in Washington, just leave us alone and give us the full advantage of good and sincere administration in these many areas so that we can keep our plants operating. That is not to say that we are asking for any unfair advantage. We will compete in the marketplace if you just do not give the people in some far-off nation in the world an unfair advantage against us here in this country.

May I conclude by saying, this is indeed a pressing and serious matter. I dare say in 10 years service in the Congress, I have not seen many industries with a guaranteed employment base of 350 which has desired so much to stay in my home State. I think it is incumbent upon me to do everything I possibly can to keep industries already located and operating in West Virginia and attempt to encourage new industries to come in.

I ask the trade advisers in the executive branch, what in the world could they discover in 4 months that the Tariff Commission has not developed and that it has not itself discussed and has not itself reviewed in 15 months? It is certainly rather amazing to me and I would suggest that what needs to be done here immediately is that the Tariff Commission's recommendation modifying the escape clause provision on lead and zinc be implemented immediately in order that this manufacturing facility in West Virginia as well as other manufacturing facilities throughout the country, and I speak certainly in behalf of others because they are also involved, will be able to continue to operate at a time when it is suggested that this Nation is enjoying its highest peak of prosperity.

I have been in contact with Mr. William M. Roth and Mr. Bernard Norwood on this matter and I expect immediate action on this very urgent problem.

For us in Harrison County, W. Va., to lose the Matthiessen & Hegeler Zinc Co. and 350 jobs at this time, and when there is such a mis- mal- and non-administration in this area by the executive it seems to me to be highly ridiculous and certainly incompetence of the highest order.

(Mr. MOORE asked and was given permission to revise and extend his remarks, and include a resolution of the Association of Industrial Development of Harrison County dealing with the difficulties of the Matthiessen & Hegeler Zinc Co.)

Mr. MOORE. By unanimous consent I insert at this point in the RECORD the resolution unanimously adopted by the Association for Industrial Development of Harrison County, W. Va., and a letter from Mr. T. R. Ferguson dated September 23 which completely explains why the recent Tariff Commission report on the effect of modifying the escape clause tariff on lead and zinc should be implemented by either increasing the import quotas or by removing restrictions on zinc imports.

A RESOLUTION BY THE ASSOCIATION FOR INDUSTRIAL DEVELOPMENT OF HARRISON COUNTY, W. VA.

I, George W. McQuain, secretary of Association for Industrial Development of Harrison County, a corporation, hereby certify that at a special meeting of the board of directors of said corporation, duly called and held at the Stonewall Jackson Hotel, in the city of Clarksburg, Harrison County, W. Va., on the 8th day of October, 1965, the following resolution was unanimously adopted:

"Whereas on August 19, 1965, representatives of Association for Industrial Development of Harrison County joined with representatives of the Chamber of Commerce of Clarksburg, W. Va., and others in a resolution requesting some relief for Matthiessen & Hegeler Zinc Co. from the unfavorable quotas on the sale of zinc from imported zinc ore;

"Whereas the quotas are still in effect and as a result thereof the Meadowbrook plant of Matthiessen & Hegeler Zinc Co. today shipped the last zinc it can ship this year under the present quota system, and the company will stockpile zinc until the first of November, but if some relief is not had by the first of November of this year, the company will be compelled to stop production at its Meadowbrook plant, for by the first of November it will have stockpiled approximately $1 million worth of zinc, which is all it can afford to stockpile;

"Whereas the Meadowbrook plant of Matthiessen & Hegeler Zinc Co. was today compelled to cancel all orders it had for delivery of zinc next week and will have to cancel orders for later deliveries if some relief as to quotas is not had;

"Whereas if the Meadowbrook plant of Matthiessen & Hegeler Zinc Co. stops production, about 350 employees will be thrown out of work and, if the plant is actually compelled to shut down, there is small likelihood that it will ever open, and Harrison County will thereby lose one of its most important and valuable industries;

"Whereas the 350 employees who will be thrown out of work by stopping production at the Meadowbrook plant cannot be absorbed by any other industry or industries in Harrison County, and these employees, practically all of whom are residents of Harrison County, will be compelled to seek employment elsewhere; and

"Whereas the closing of said Meadowbrook plant will cause great hardship to the employees and their families and will have a serious adverse effect on the economy of Harrison County and the city of Clarksburg: Now, therefore, be it

Resolved by the board of directors of the Association for Industrial Development of Harrison County, That the President of the United States be, and he is hereby, urged to take prompt action in removing the present quotas on zinc in accordance with the recommendations of the Tariff Commission in its report on this important subject; and be it further

Resolved, That copies of this resolution be sent to the President of the United States, the Vice President of the United States, Senator MIKE MANSFIELD, Senator EVERETT M. DIRKSEN, Gov. Christian Herter and his Trade Expansion Committee, Gov. Hulett Smith of the State of West Virginia, all members of the West Virginia congressional delegation, and to the heads of such U.S. Government departments as may have a recommendation to make to the President on zinc import or zinc quotas."

Given under my hand and the seal of the corporation, this the 8th day of October 1965.

GEORGE W. MCQUAIN,
Secretary.

SEPTEMBER 23, 1965.

HON. ARCH A. MOORE, Jr.,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOORE: We know that you have already taken up with the President the question of removal of the existing import quotas on zinc concentrate as the Tariff Commission has so recommended. Our workers, the union, and our company all deeply appreciate the fine attention you have given to this matter which is so vital to us. That which was a serious situation when we visted with you in Washington several weeks ago has now developed into a critical situation. I am now contacting the officials of our union requesting a meeting to work out plans to shut down our plant. Approximately 300 workers are involved.

As we explained to you in Washington, the existing quotas on a quarterly basis do not provide us with enough concentrate with which to smelt metal. Fortunately, we have had reserves which we have been using. Those reserves are being exhausted at this time. The new quarter commences on October 1; and, of course, we will obtain a small amount of ore as our share for that quarter. It will last us only a few weeks.

If we should shut down our smelting plant, we may never be able to reopen it.

Here are the facts: We have 30 retorts each with a value of approximately $125,000. As you may be aware, these retorts are very large, are made of a firebrick and carborundum and are used for smelting the ore. If we shut down completely and this brick gets cold, it will crack and be worthless, constituing a loss of approximately $2,500,000. If this should occur, we would not expect to reopen. If we are forced to close down, we would attempt to dead fire the retorts for a while, hoping for Presidential action, but even this would cause us much damage, perhaps a million dollars, even for a limited shutdown.

If we should close down there is also a very practical reason why we could probably not reopen and again offer employment to these approximately 300 people. This is because we must sell our metal in competition with other smelters who own their own mines and are able to obtain ore to operate their smelting plants from their own mines. These smelters are not located in West Virginia.

Our customers would take the position that if we are not able to supply them with metal, other smelters will supply them; and should they once terminate buying from us and shift to other smelters who own their own mines, obviously they would not return to us. This attitude is understandable.

In an effort to do everything to prevent our having to stop operations, we have imported in bond a reasonable quantity of ore so that when the quota is lifted, we could proceed immediately without delay, providing the closing down which we are now preparing for has not taken place.

In West Virginia so many industries have been in vital need of minimum import protection and yet the administration has taken a hard stand against protecting American industry. In this instance, we have just the opposite situation, the case of a commodity in critically short supply, the Tariff Commission having recommended the elimination of the quota many weeks ago; and yet the President has not acted to allow us to obtain a supply of ore with which to operate our plant.

We are hopeful you will be able to get the President to act immediately. It is very critical We are grateful for your efforts.

Sincerely,

MATTHIESSEN & HEGELER ZINC CO.
T. R. FERGUSON, *Plant Manager.*

CLEVELAND COMMENDS CONGRESSMAN ICHORD FOR DRAMATIZING NEED FOR DIRKSEN AMENDMENT

(Mr. CLEVELAND (at the request of Mr. ANDREWS of North Dakota) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, I want to commend the gentleman from Missouri [Mr. ICHORD] for the dramatic manner he has devised to call public attention to the illogical aspects of the Supreme Court's one-man, one-vote ruling. The logical extension of this ruling is the proposition, which the gentleman has put forward, that the Constitution should be amended to reapportion the U.S. Senate on this basis. Under such a plan, the 6 New England States would have their representation cut from 12 to 6 U.S. Senators. I hope this observation will have special meaning for those New England Senators who saw fit to vote against the Dirksen amendment when it came up for a vote earlier this year.

But, if we are to apply the philosophy of the Supreme Court with the even hand of justice, which is the world-renowned hallmark of our free Government, the gentleman's proposal is a logical one. Of course, I do not support such an idea any more than I believe he does, but the gentleman should be congratulated for adopting this novel means of focusing public attention on this serious problem.

CLEVELAND BILL EXPLAINED

I know the gentleman, like myself, is a sponsor of legislation under which the States could, if they chose, select the membership of one house of their legislatures on the basis of factors other than population alone. My bill would allow States to do this only where the citizens approved in a statewide referendum. My bill, similar to the Dirksen bill, is permissive only. It would not require States to reapportion their legislatures on any other basis than population. It would, however, leave the matter to the people and give them an option which they do not now have.

WARREN ONCE IN FAVOR

The reasons for doing this have never been expressed better than they were stated by Chief Justice Warren when he was Governor of California which reads in part:

> They (the 58 counties) are far more important in the life of our State than their population bears to the entire population of the State. In this respect they are comparable to some of the less populous but important States of the Union.
>
> It it for this reason that I have never been in favor of restricting their representation on our State Senate to a strictly population basis.
>
> It is the same reason that the Founding Fathers of our country gave balanced representation to the States of the Union—equal representation in one house and proportionate representation based upon population in the other.

I believe such an approach is essential for the protection of minority rights. My bill, and the others like it, would give minorities a means for defending themselves, at least where the majority of voters in a statewide referendum approved. Without such a provision, State governments, operating under the one-man, one-vote concept—which can never be achieved in fact—will lose their formal power to protect minority rights. All power will go to great voting blocs, often dominated by city political machines. Up-country interests can be overridden by the tide of metropolitan numbers.

MINORITY PROTECTED

Unless the Dirksen amendment is approved, the treasured concept of minority representation in this country will be all but abolished. Only the U.S. Senate will remain to embody the principle. I know the gentleman from Missouri offers his amendment facetiously and as a device to point out the dangerous absurdities of the one-man, one-vote ruling but it is in line with the philosophic movement put in train by the Supreme Court decision. There are some I fear who would take it seriously and it may not be long before it is proposed in earnest.

Let us act soon, Mr. Speaker, to provide a means by which the States may protect themselves and the country from the dangerous impact of this ill-considered ruling.

CONSULAR TREATY WITH THE SOVIET UNION

(Mr. DERWINSKI (at the request of Mr. ANDREWS of North Dakota) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DERWINSKI. Mr. Speaker, on a number of occasions in the past month I have discussed the premature and perfunctory approval by the Senate Foreign Relations Committee of the consular treaty with the Soviet Union. I am pleased that this committee of the other body has withheld action in bringing the matter to the floor for at least this session of Congress.

A very timely and penetrating analysis of the consular treaty is contained in an article by Columnist Harry E. Dembkowski of the Polish American which I ask leave to insert in the RECORD at this point as part of my remarks.

It is my understanding, Mr. Speaker, that the chairman of the Senate Foreign Relations Committee has indicated that he will reopen hearings when Congress reconvenes and permit opponents to express their opinion. I am most hopeful that this treaty will not be ramrodded through the Senate and that a full discussion of its potential problems for us is held at this time. Views such as those expressed by Mr. Dembkowski deserve to receive full public scrutiny.

[From the Polish American, Sept. 25, 1965]

CONSULAR TREATY: ANOTHER DUBIOUS "PEACE" OFFERING

(By Harry E. Dembkowski)

On June 1, 1964, the United States and the Soviet Union signed a Consular Convention in Moscow. This was a treaty calling for the establishment of Soviet consulates in several American cities and, in return, of American consulates in several cities of the Soviet Union.

Eleven days later the treaty was submitted to the U.S. Senate for ratification with President Johnson explaining, "It is hoped that this treaty will be a step forward in developing understanding between the two countries which is so important in continuing the struggle for peace" and that it is "a significant step in our continuing efforts to increase contacts and understanding."

At the same time, by a curious coincidence, the Soviet regime was saying substantially the same thing. And everyone concerned thought that senatorial confirmation would be quick and easy.

But opposition soon arose. Senator DIRKSEN, for instance, called the treaty an unprecedented concession to the Soviet Union. Incoming mail, especially from the Midwest and West, where two of the expected three Soviet consulates would be established, revealed wide disapproval of the pact.

It was an election year and—in a gesture of political chicanery—the Democratic high command ordered the entire matter shoved under the rug until the new Congress convened in 1965.

Unfortunately this blackout action was successful since its opponents, especially Senator Goldwater, failed to make a campaign issue out of it, and a national discussion of the treaty's merits failed to take place.

By July of this year the administration felt free to act. A hearing on the treaty

was scheduled by the Senate Foreign Relations Committee, which is headed by that noted "realist," Senator FULBRIGHT, as a preliminary before Senate ratification sometime next year. But the only witnesses heard were Secretary of State Rusk and his legal adviser—hardly to be considered impartial witnesses—and no one else was permitted to testify.

In controversial matters of this sort it is usually the practice to allow various experts and interested parties the right to testify and offer their views. But, as in the presidential campaign, an open discussion of the issue was muffled. (FULBRIGHT, who controlled the hearings and prevented anyone else from testifying, must have forgotten some words he spoke last year in his famous address on "Old Myths and New Realities": "If we are to disabuse ourselves of old myths and to act wisely and creatively upon the new realities of our time, we must think and talk about our problems with perfect freedom.)"

And there the matter now rests.

The treaty, as already indicated, calls for the establishment of consular relations with the Soviet Union. This in itself would not be unusual or too objectionable since the United States maintains consular relations with many, including some Communist, nations.

Nor would it be anything new. In 1934 we established a consulate in Vladivostok while Moscow opened up consulates in New York and San Francisco. After the war we received permission to open one in Leningrad, but never did. For by then Russian hostility was growing and, after the notorious Oksana Kasenkine affair in New York in 1948, they broke off all consular relations.

Why, then, should we oppose the present consular treaty which seeks—in the words of its supporters—to "normalize" relations between the United States and the U.S.S.R.? Because the treaty contains a number of pitfalls, as will be pointed out in some detail next week, that bode ill for this Nation.

Thus far the proponents of the treaty have failed to clearly spell out to the American people exactly what the treaty contains. Perhaps because they realize that if its contents became widely known, criticism would mount and eventually defeat it. They insist that the treaty is desirable in the name of peace. But "peace" is a handy catch phrase used to excuse whatever concessions are offered to the foe. Enough—far too many—concessions have already been given to that foe.

THE LAW ENFORCEMENT OFFICER IS IN TROUBLE WITH THE LAW

The SPEAKER pro tempore (Mr. FRIEDEL). Under previous order of the House, the gentleman from Ohio [Mr. ASHBROOK] is recognized for 15 minutes.

Mr. ASHBROOK. Mr. Speaker, although primarily of local interest, an incident here in Washington last September 8 points up current complexities in law enforcement which are of national importance.

In violation of District of Columbia law, which prohibits ball games of any kind in the streets and alleys of the city, four youths were detained by two District policemen for playing football in an alley. Scores of persons marched on the stationhouse to complain, and the policemen were later chastised for using bad judgment. The incident assumed greater proportions today when it was reported that a group of Washington businessmen had begun mobilizing support for the two policemen.

Despite its minor nature, the above-cited case involves factors not appreciated by the average citizen. How real and complex are some of the obstacles which confront law officials today was excellently outlined by Mr. Dwight J. Dalbey, special agent of the FBI legal research desk, in a speech which later appeared in the FBI Law Enforcement Bulletin of July 1965.

The theme of Mr. Dalbey's remarks contends that the law enforcement officer is in trouble with the law. In addition to legal confusion reaching as far as U.S. Supreme Court inconsistencies, public apathy and the necessity for an increase in police personnel and funds were cited as contributing causes.

Numerous and sometimes superficial panaceas have been offered regarding the issue of crime in our Nation. For a responsible and instructive treatment of the subject, I recommend Mr. Dalbey's fine presentation, "Taking Inventory."

[From the FBI Law Enforcement Bulletin, July 1965]

TAKING INVENTORY

(By Dwight J. Dalbey, Special Agent, Federal Bureau of Investigation)

(NOTE.—The law enforcement officer is in trouble with the law. Why? Special Agent Dalbey, FBI Legal Research Desk, gives some of the answers to this puzzling question in a speech he presented recently at the graduation exercises of the Southwestern Police Academy, Dallas, Tex., and at the 33d annual conference of the Missouri Peace Officers Association, St. Louis, Mo.)

In the social corporation which we call law enforcement, a comprehensive inventory taking is long overdue. In a comparatively few years this Nation has changed from a principally agrarian society in which criminal offenses where the simple, age-old crimes common to all mankind to a highly urbanized society in which the old crimes persist with new twists and new offenses seem to thrive like bacteria in a laboratory culture.

We have improved our transportation so remarkably that a criminal can leap the continent by air in less time than his predecessor could leave the county by horse and buggy. We have built a communications system so complete that an astute criminal can direct and commit criminal offenses through a network of telephones from coast to coast and border to border.

We have transformed ourselves from a society in which some constitutional rights often were ignored or overlooked to one in which they all are universally insisted upon. We have replaced the frontier law enforcement officer, whose power was measured largely by the bulge in his biceps and the speed of his six-gun, with an organization man who carries a manual of administrative regulations under one arm and a lawbook under the other. The individual now has more power against the police, and the police have less power against the individual.

As stated by the chief judge of a Federal circuit court of appeals: "The two distinct trends in the criminal law during the last 40 years have been to strengthen the rights of the individual and to restrict the powers of the police."[1] Yet the stockholders in this corporation—the citizens at large—have taken little notice of those changes and their effect on the security of each of them in his life, liberty, and property. They do not see the conditions which are sapping the strength of law enforcement.

[1] Judge J. Edward Lumbard, "The Administration of Criminal Justice," American Bar Association Journal, September 1963.

The obvious proof of our need to take inventory is the expanding volume and intensity of crime, a problem on which Director J. Edgar Hoover of the FBI has endeavored to focus public attention for years. Crime has unquestionably reached the proportions of a public menace in some areas and is threatening in many others. Preliminary figures for 1964 show that crime in the United States increased 13 percent over the same period in 1963. The volume of crime has grown almost constantly for approximately two decades. That fact is not necessarily serious in itself. We must expect a growing population to generate a rising volume of crime. But the volume of crime does not stand alone. It is the rate of increase in crime that is alarming. Since 1958 crime has increased five times faster than population growth. Not only are there more murders, robberies, burglaries, and larcenies than ever before, there are more of each of these crimes and all others per 1,000 inhabitants. In at least the statistical sense, each inhabitant is in greater personal danger from crime than ever before. Public security against crime has hit a new low for our time.

But the cold statistics on crime are inadequate to demonstrate the magnitude of the problem. They do not graphically portray the human tragedy of crime. The cold statistics do not spill the blood of the murder victim before the public eye, nor echo his screams of terror in the quiet halls of justice. They do not express the fears with which many of our people must now live—the fear of the bus driver that he will be beaten and robbed at the end of the line; the fear of the cabdriver that he will be shot in the back for his night's receipts; and the fear of the woman necessarily abroad that she will be attacked either by day or by night. Yet these crimes and others equally vicious have occurred with frightening frequency in at least some of our larger urban areas.

The cold statistics on crime do not reveal disabling injury, financial loss, or a citizen's voluntary curtailment of his own freedom of movement lest he be victimized in the exercise of it. Yet these are the ultimate facts in the menacing growth of crime, and the end result to many a victim is that his allegedly unalienable right to life, liberty, and property becomes a hollow mockery.

An inventory will readily disclose specific facts to show some of our fellow citizens live in constant danger of criminal molestation and violence. In a large eastern city, the newspapers of recent years, and particularly those of recent months, have stated that taxicab drivers are so fearful of robbery that they are reluctant to drive at night; that narcotics addicts, sexual perverts, and other undesirables are driving the citizens from the public parks, and that widespread vandalism is costing public and private concerns millions of dollars annually.

In several large residential areas of modest income, where there are as many as 1,800 apartments in many tall buildings, so many of those who live there have been robbed, raped, mugged, beaten to death, or victimized in other crimes that the men of the families residing there have set up systems of voluntary patrols to guard those buildings during the late evening and night hours.

Violence in the streets, the corridors, and the elevators has thus brought back to some areas of that city a system of citizen police which was discarded a century and a quarter ago with the establishment of the first official police forces. One newspaper stated that "of the many problems disrupting the present and threatening the future of this city, none is more critical than this growing concern and fear over the increase of fear and violence in the streets, the elevators, and the parks."

Nor is that one city unique; other large cities suffer from burgeoning crime. In a

different city the newspapers of recent months reported that in two separate sections of the city, alarmed citizens have banded together to set up vigilance and warning systems to protect their people and their homes against criminal attack. "At times," a newspaper reported, "the attitude of the homeowners * * * appeared to be that of a frontier posse."

In that same city, during the month of December 1964, merchants with firearms shot five thugs attempting to rob them in their stores. This was said to be something of a record in the city and reminiscent of the do-it-yourself law enforcement of the vigilantes of the early frontier.

A newspaper in a third large city stated editorially in February 1965 that "Law-abiding citizens here are getting fed up with invasions of their homes by burglars and stickup men. It was bad enough when sneak thieves were breaking into houses and ransacking them for valuables. A new and worse pattern seems to be taking shape; the crooks break into an empty dwelling, wait for the householders to come home, crack their skulls with the butt end of a pistol, and make off with their jewelry."

President Lewis F. Powell, Jr., of the American Bar Association said recently that "When we have reached a situation—as we have in certain areas—where law-abiding citizens are unsafe in their homes and are denied the privilege of using the public streets and parks for fear of their personal safety, we are approaching paralysis in the first duty of government at all levels." [2] And as you are all aware, the President of the United States has shown his concern with this problem.

DEFECTIVE RATIONALIZATION

There are those who seek to rationalize the risk of crime by stating that some crime is inevitable in a free society in which police powers necessarily are limited and that the citizen must assume this hazard. But this easy rationalization has obvious defects. It places no upper limits on the hazard of crime which the citizen must assume in a era of rising crime trends. Moreover, it falsely assumes that the citizen living in some quiet suburb shares the risk of crime equally with those who live in the poorer and more densely populated sections of the central city.

The victims of the criminal are predominantly the poor and those of modest income.[3] It is the weak and inarticulate, forced by economic circumstance to live and work in the areas of greatest danger, who bear the greatest human burden of crime. This is an inequity which cannot fairly be rationalized and which no citizen of this Nation, however safe he may be in his own home, should be willing to tolerate.

It would not be amiss at this point to speculate a moment on the future. Within a few years, the city planning experts say, three-quarters of the American people will live in a fairly small number of metropolitan areas, fewer than 200. Nearly 40 percent of the population will live in or close by three monster supercities—one spreading from Boston, Mass., to Norfolk, Va., another from Milwaukee to Detroit or Cleveland, and a third from San Francisco to San Diego.[4] If crime already thrives like a malignant virus in many streets of the metropolis today, what proportions will it assume when those streets stretch out for hundreds of miles?

An inventory of law enforcement will show that the employee of this social corporation—the law enforcement officer—is in trouble with the law. He is in trouble with the law because in many important respects he does not know what the law requires of him. The law often is confused and uncertain, failing to clearly mark out the powers which the officer may exercise and the restrictions upon those powers. This was true in the days of Wyatt Earp and the frontier sheriff, but the official acts of those officers were not required to pass the microscopic legal analysis of the official acts of police officers today.

Now, unlike then, a man arrested for a crime has a right to demand a lawyer from the moment of arrest,[5] and you may be sure that the lawyer will minutely examine the officer's work for any legal flaws which may exist. It is his duty to do so. Now, unlike then, the principal legal questions concerning arrest, search, and interrogation in State cases are questions of Federal constitutional law.[6] And those questions may be raised by the defendant through every level of the State courts and then to the Federal courts and to the Supreme Court of the United States. The legal problems of today's officer make those of the frontier marshal and sheriff look like child's play.

LEGAL CONFUSION

Yet this gaping defect in the law—the uncertainty of the powers which it gives and denies to the officers—goes largely unrecognized and unadmitted, even by those who should know better. When an officer investigating a case of some notoriety makes an arrest on information which the courts later find to be insufficient to meet the Federal constitutional standard of probable cause for arrest, or a search is found by the courts to be unreasonable, the critics have a field day. They say, as one said recently in a letter to a national publication, "Why don't our law enforcement officers simply begin to observe the law and to confine their searches and seizures to those which do not violate constitutional guarantees?"

Let the Supreme Court of the United States answer that question. Mr. Justice Frankfurter said the decisions of the Supreme Court itself on what is a reasonable search incidental to lawful arrest "cannot be satisfactorily reconciled" with each other.[7] Chief Justice Vinson said the law of search and seizure is "replete with perplexities." [8] Mr. Justice Black said it is a matter of "uncertainty." [9] Mr. Justice Clark said it is a "quagmire." [10] Mr. Justice Jackson spoke of the law of search and seizure as a subject on which "This Court and its members have been * * * inconstant and inconsistent." [11]

Or let the senior judge of a U.S. circuit court of appeals answer the question why officers don't "simply begin to observe the law." In the words of the judge: "Police officers need to know their powers to question, detain, and arrest, but Federal law and the laws of all the States on these questions are in great confusion. * * * Reliable guides are usually unavailable, so that no one can say with any certainty what powers the police officer has until the particular case is decided by the courts." [12]

Another Federal circuit judge said a year ago: "I must concede that some of the rules laid down by the lawgivers—including judges—are so ambiguous that even a judge, were he the watchman on the firing line, would not always know precisely what to do to avoid breaking the laws which govern the police. Moreover, they reflect an astounding naiveté concerning the realities and risks involved in searches and arrests." [13] Or, as the judge of the supreme court of a large State said last year: 'In the interest of effective law enforcement, law-enforcing officials and the courts of this State must be clearly advised of what is and what is not permissible search and seizure." [14] When the judges themselves find the law confused and uncertain, how is it humanly possible for the police officer to "simply begin to observe the law"?

The uncertainty of the law springs from many sources, and some of it must remain so long as men disagree on what is right and what is wrong. But much of it can be removed by legislation updating our criminal codes, some of them over a century old, to fit modern crime conditions and modern concepts of basic constitutional rights. A few States already have made such a revision.

Some may shrug off the uncertainty of the law as a police problem only—a worry to be left to the police administrators. But it is more than that; it is a problem for the citizen who expects protection against crime. Uncertainty in the law leads to the discouragement and demoralization of police officers, hesitancy in making even those arrests which the law would allow, and, consequently, greater freedom of action for the criminal.

The officer is in trouble with the law because so much knowledge is expected of him and so little training is given to him. It is not an exaggeration to say that the law enforcement officer is now required to be a constitutional lawyer in some areas of the criminal law, particularly those covering arrest and search.

Due to circumstances beyond the control of anyone, many arrests and searches, if not most, must be made on an emergency basis. There is no time for asking a judge or magistrate to determine the existence of probable cause for arrest, or the limitations of a reasonable search. The officer must decide these questions for himself, and in the proverbial split second. Yet these are questions on which the judges themselves disagree frequently, and the *Mapp* decision in 1961 made them questons of Federal constitutional law which can be appealed all the way to the Supreme Court of the United States. But who instructs the officer in these areas of the Federal constitutional law, to say nothing of State law? Who teaches him what the courts, the public, and the critics require him to know? The FBI has done so for many years under a program of police cooperation inaugurated by Director Hoover long ago, but police training still labors under severe handicaps.

TRAINING NEEDED

The vast majority of law enforcement officers have no police academy or other facilities suitable for instruction, and no money in the police budget to provide for systematic and extended training in the law by the instructors available. This Nation can afford many law schools for training judges, prosecutors, and defense lawyers, and it does afford free legal counsel to an indigent defendant. It surely can also afford the facilities and finances which would permit instructors trained in both the law and police work to teach the law to officers who must make judgments of constitutional law and do so in a moment's time and under the pressure of personal danger.

Like uncertainty in the law, inadequate police training in the law is more than a police problem. Inadequate training in the

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[2] United Press International, Jan. 29, 1965.
[3] New York Times, Feb. 19, 1965.
[4] American Directions: A Forecast, Harper's, February 1965.
[5] *Escobedo* v. *Illinois*, 378 U.S. 478 (1964).
[6] *Mapp* v. *Ohio*, 367 U.S. 643 (1961); *Beck* v. *Ohio*, 379 U.S. 89 (1964); *Escobedo* v. *Illinois*, *supra*.
[7] *Abel* v. *U.S.*, 362 U.S. 217 (1960).
[8] *Trupiano* v. *U.S.*, 334 U.S. 699 (1948).
[9] *U.S.* v. *Rabinowitz*, 339 US. 56 (1950).
[10] *Chapman* v. *U.S.*, 365 U.S. 610 (1961).
[11] *Irvine* v. *California*, 347 U.S. 128 (1954).
[12] Judge Lumbard, *supra*.
[13] Judge Warren E. Burger, Court of Appeals, District of Columbia Circuit, lecture at the American University, Washington, D.C., Apr. 17, 1964.
[14] Justice Harry F. Kelly, *Michigan* v. *Bannan*, 125 N.W. 2d 875 (1964), cert. denied Jan. 18, 1965.